

## REMARKS/ARGUMENTS

### *Status of Claims*

Claims 1-6 were previously canceled.

Claim 7 is currently amended.

Claims 8-10 were previously amended.

Claims 11-15 were previously canceled.

As such, claims 7-10 are currently pending in this application.

Applicant hereby requests further examination and reconsideration of the presently claimed application

### *Specification*

The title of the invention stands objected to in that it is not indicative of the invention to which the claims are directed. Applicant respectfully requests that the title of the invention be changed to “GENERATION AND PROVISION OF DIRECTED SALES INCENTIVES AT LOCATIONS REMOTE FROM THE POINT OF SALE.”

### *Claim Rejections – 35 U.S.C. § 101*

Claims 7-10 stand rejected under 35 U.S.C. § 101 because, as stated by the Office Action, “the claimed invention does not fall within at least one of the four categories of patentable subject matter recited in 35 U.S.C. 101.” *See* Office Action at 2. Applicant respectfully disagrees. Claim 7 includes the qualifying language, “utilizing a computer to execute a plurality of steps, the steps comprising . . . .” Thus, the data structures claimed in amended claim 7 (e.g., purchase information, customer information, and promotion information) are inherently described as being encoded onto a computer-readable medium. As such, claim 7 contains a defined structural and functional interrelationship between the data structure and the computer

software and hardware components which permits the data structure's functionality to be realized. *See* MPEP § 2106 (IV)(B)(1)(a). Therefore, claim 7 and its dependent claims 8-10 encompass statutory subject matter. *See id.* (“[A] claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.”).

### ***Claim Rejections – 35 U.S.C. § 102***

Claims 7-10 stand rejected under § 102(b) as anticipated by *Deaton* (U.S. Patent No. 5,649,114). According to MPEP § 2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Claim 7 has been amended to recite subject matter that is not disclosed by *Deaton*.

Specifically, amended claim 7 reads:

7. (Currently Amended) A method of improving customer loyalty via generation and provision of a customer incentive report remote from a point of sale, said method comprising:

utilizing a computer to execute a plurality of steps, the steps comprising:

selecting a product information related to a product;

storing a purchase information related to the purchase of the product by a customer;

storing a customer information related to the customer, the customer information associating the customer with the purchase;

storing a promotion information related to a promotion of the product, the promotion being independent of the customer information, wherein the promotion information includes both current and future promotional incentives;

determining an intersection of the promotion information, the purchase information, and the customer information and storing the intersection in a database as the customer incentive report;

wherein the database comprises a first table containing the product information, a second table comprising the purchase information, and a third table comprising the promotion information and a reference to a row of at least one other table in the database; and,

following the determining step:

fashioning the second table responsive to an item identifier attribute of the first table; and

picking at least one row from the first table or the second table; and,

receiving an identifier comprising at least a portion of the first table; and

fashioning the third table with the identifier.

Support for the amending language can be found in the specification. *See* Application at 7, lines 18-24 (“[W]henver the customer goes shopping, he or she may go to one of the kiosks before beginning shopping and presents the card 22 to the customer interface 28. The store level computer 12 includes means for accessing information about the special offers available to the customer associated with the card, and generates a customized list of special offers available to that particular customer. More particularly, the computer 12 determines what special offers are available to this customer, and sends a list of special offers to the offer communicator 32.”); *see also* Application at 5, lines 18-19 (“[T]his list may further include future, yet potential, incentive prices and items for the customer’s organizational benefit.”). The instant invention contemplates the generation and provision of a customer incentive list including current and future incentives at locales remote from the point of sale. *See supra* claim 7.

Applicant reaffirms his contention raised in the previous communiqué that the instant application's "customer incentive report" is quite different from *Deaton*'s point of sale ("POS") coupons. Nevertheless, such contention is rendered moot by the instant amendments to claim 7. Applicant notes with appreciation the Examiner's acknowledgement that "[i]n considering the disclosure of a reference, it is proper to take into account not only the specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." See Office Action at 6 (citing *In re Preda*, 401 F.2d 825, 826, 156 USPQ 342, 344 (CCPA 1968)). Accordingly, Applicant submits that *Deaton* neither specifically teaches (nor would one skilled in the art reasonably infer) the generation and provision of a customer incentive report remote from a point of sale nor that the promotion information includes both current and future promotional incentives.

*Deaton* actually teaches away from the "remote from a point of sale" concept. *Deaton* teaches "[a] system and method for customer promotion . . . at the point of sale." See *Deaton* at ABSTRACT; see also Figures 17-45B (all figures are directed to the point of sale); col. 70, lines 30-31; col. 73, lines 55-60 ("FIGS. 19-45A-B illustrate various apparatus and program flow diagrams of a system which not only performs automatic payment processing of a customer's payment at the POS but also generates automatic targeted marketing to the customer at the POS . . .").

Furthermore, *Deaton*'s teachings are limited to currently provided incentives and are silent regarding the availability of incentives to a particular customer at a future date. As noted in the instant application, "this list may further include future, yet potential, incentive prices and items for the customer's organizational benefit. In this manner, the store is assisting the customer in scheduling and organizing family food expense." See Application at 5, lines 18-22.

Because amended claim 7 is not anticipated by *Deaton*, it is in allowable form. Additionally, because claims 8-10 are dependent on amended claim 7, claims 8-10 are also allowable.

**CONCLUSION**

Consideration of the foregoing remarks, reconsideration of the application, and withdrawal of the rejections and objections is respectfully requested by Applicant. No new matter is introduced by way of the amendment. It is believed that each ground of rejection raised in the Office Action dated January 30, 2007 has been fully addressed. If any fee is due as a result of the filing of this paper, please appropriately charge such fee to Deposit Account Number 50-1515 of Conley Rose, P.C., Texas. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore.

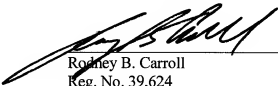
If a telephone conference would facilitate the resolution of any issue or expedite the prosecution of the application, the Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,

CONLEY ROSE, P.C.

Date: \_\_\_\_\_

4-26-07

  
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